

IN THE SENATE OF THE UNITED STATES.

MARCH 17, 1880.—Ordered to be printed.

Mr. HEREFORD, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 816.]

The Committee on Claims, to whom was referred the bill (S. 816) for the relief of Theodore F. Hartridge and William G. Christopher, sureties on the official bond of Felix Livingston, collector of customs at Fernandina, Fla., report as follows:

This is a bill for the relief of Theodore Hartridge and William G. Christopher, sureties on the official bond of Felix Livingston, late collector of customs at Fernandina, Fla.

The facts are as follows: Felix Livingston was appointed collector of customs for the district of Fernandina, in the State of Florida, March 13, 1857, for four years from March 12, 1857, which appointment expired March 12, 1861. On the 26th day of March, 1857, he executed an official bond with John M. Pons, Theodore Hartridge, Alfred G. Phillips, and William G. Christopher as sureties, and he took the oath of office March 31, 1857.

By the last regular account furnished by him to the Government of the United States, on December 31, 1860, we find his account stands as follows:

On account of customs	\$297 20
On account light-house establishment	328 02
Total	625 22
Less balance due collector on account of expenses of collection	43 91
Net balance due United States	581 31

On July 8, 1867, said Livingston transmitted to the Treasury Department accounts for expenses of collection for first quarter 1861, and for light-house establishment for first and second quarters of 1860, in the former of which he charged payments amounting to \$216.66; one of the vouchers in the name of the State of Florida and the others in the name of the Confederate States.

These vouchers were not approved.

He also charged salary \$41.33, and commissions \$7.33.

None of these amounts were allowed.

Vouchers for salaries of light-house keepers, \$531.56, were furnished with the light-house account, all in the name of the Confederate States.

The Confederate States advanced \$269.06 on account of amount paid to keepers.

On April 28, 1875, the Solicitor of the Treasury was requested to institute suit against the late collector and his sureties for \$581.31.

Judgment was obtained against John M. Pons for said amount.

The suits against the other sureties have been continued to allow them to appeal to Congress for relief. The collector, Livingston, is dead.

Upon application to the Treasury Department for papers and any information the department had on the subject, amongst other matters a copy of a letter from the said Livingston is furnished, from which the committee make the following extract as explanatory of the whole subject-matter:

These accounts show that the entire balance left in my hands on the 31st day of December, 1860, to wit, \$572.40, was disbursed by me in defraying the current and usual expenses of the district, mostly to the light-house keepers, and such as I was directed to pay to the department at Washington. I paid my own salary only for the month of January, 1861, out of said fund, all of which I respectfully submit I was fully authorized to do by the law and regulations.

It is true I tendered my resignation to the President about the middle of January, 1861; but I never received any notice of its acceptance. On the contrary, I received frequent communications from the Register of the Treasury, and from Mr. Samuel Ingham, Commissioner of Customs, one from that latter, dated as late as May 4th of that year, all still addressing me as collector. I was then undoubtedly still collector of the district; what was I then to do with my fund? I could not get rid of it to any officer of the United States Government authorized to receive it. My duty was to pay it with fidelity to those to whom it was justly due for services rendered the United States Government. This I did, and now account for it. You will, however, perceive that the accounts and vouchers transmitted cover a larger sum than this balance which I am called upon to account for. This excess was furnished me by the Confederate Government in the shape of treasury notes of that government. These, being the only funds which I could obtain, were used by me in defraying the current expenses of the district according to instruction received from Washington previous to the act of secession.

This balance, \$572.40, was not near enough to pay the salaries of the officers and other regular expenses for the first quarter 1861, all of which time we were still regarded at Washington as being in the employment and service of the United States Government, and none of whom except myself ever attempted to sever their connection with their government; the only irregularity in my whole conduct of this matter was the disbursement of the fund of \$297.20, which was in my hands as collector of customs, and this I respectfully submit was unavoidable on my part, as otherwise it would have been forced from my hands by the usurping government, and the most was used by me for the benefit of the United States, and not for any unlawful purposes. If I had not paid these salaries, would not the United States still be liable for them? My defense is in a nutshell; I could no longer receive the protection of my government, but my action was for the benefit of the United States and in pursuance of instruction received from Washington. Is this not only an equitable but a legal defense also for my conduct? I respectfully submit these facts for the consideration of the department, and ask that my action may be approved and the accounts herewith transmitted audited, and my account with the Treasury Department balanced. Allow me to express the hope that the honorable Secretary of the Treasury may find it convenient to take my case into consideration at an early day, and that I may be advised of his decision.

I have the honor to be, very respectfully, your obedient servant,

F. LIVINGSTON,
Late Collector, Fernandina, Fla.

P. S. I would respectfully add that neither of the persons to whom this fund was paid by me ever engaged in the rebellion. This can be proved if required.

F. LIVINGSTON.

From the foregoing state of facts it appears that said Livingston did not appropriate any of the funds to his own use, but paid them to light-house officers, and that the United States has reaped the full benefit of it. There was no embezzlement, no moral guilt. If the facts stated in the foregoing letter are true (and it has been sent to the committee without disapprobation) and none of the facts controverted, from this

letter it seems he was recognized by the United States as collector as late as May 4, 1861. He says in this letter that he paid it to those entitled to receive it under the law and for services rendered the United States.

If this latter statement is true, he and his sureties should not be held bound. The government has the means of knowing if this be true or not. The statement is not denied. Your committee recommend the passage of the bill hereby reported as a substitute.



